

Remarks

Applicant respectfully requests entrance of the present Amendment. Claims 124, 130, 132, 145, and 153 have been amended. Claim 124 has been amended to correct a spelling error. Claim 130 has been amended to recite the language of claims 130 and 131 in Markush language. Claim 132 has been amended to recite the language of claims 132-135 in Markush language. Claim 145 has been amended to recite the language of claims 145-151 in Markush language. Claim 153 has been amended to recite the language of claims 153-156 in Markush language. Claims 131, 133-135, 146-151, and 154-156 have been canceled. Applicant respectfully submits that no new matter has been added by the present Amendment.

In Applicant's Response to Restriction Requirement that was submitted to the USPTO on February 7, 2008, Applicant elected Group I (claims 1-38, 58-60, and 124), drawn to a lentiviral vector comprising the following elements: (i) a functional packaging signal, (ii) a multiple cloning site, and (iii) at least one additional element selected from the group consisting of: a second MCS, a second MCS into which a heterologous nucleic acid is inserted, an HIV FLAP element, an expression-enhancing posttranscriptional regulatory element, a target site for a site-specific recombinase, and a self-inactivating LTR, wherein the lentiviral vector is a lentiviral transfer plasmid or an infectious lentiviral particle, a cell encompassing the transfer or provirus of the lentiviral vector, and kit comprising the lentiviral transfer plasmid. As mentioned in the February 7, 2008 Response, Applicant respectfully submits that claims 125-152 should be examined along with the Group I claims.

The present Notice states that the February 7, 2008 Response was non-responsive because it did not include an election of species as required by the Restriction Requirement. Applicant thanks the Examiner for telephone conversations that took place on April 7 and 10, 2008, during which the species election was discussed. During those conversations, the Examiner indicated a willingness to withdraw the requirement for an election of species if Applicant amended the claims so that they recite Markush groups. Applicant has made amendments to the claims to recite Markush groups, as detailed above, and respectfully requests that the requirement for an election of species be withdrawn.

If, however, the Examiner is not willing to withdraw the requirement for an election of species in light of the present Amendment, Applicant is willing to make the following elections for initiation of the Examiner's search:

Claim 9: unique restriction sites for at least NotI, ApaI, XhoI, and XbaI enzymes. The claims that encompass this elected species include all pending claims except for claims 128 and 129.

Claim 10: unique restriction sites for at least NotI, ApaI, XhoI, XbaI, and HpaI enzymes. The claims that encompass this elected species include all pending claims except for claims 128 and 129.

Claim 35: EGFP reporter. The claims that encompass this elected species include all pending claims.

Applicant understands that if the elected species are found to be clear of the art, the Examiner will examine all of the linking claims broadly, and not solely as they relate to the elected species. If the linking claims are found to be allowable, then the Examiner will withdraw the restriction between the elected and non-elected species.

Applicant notes that paragraphs (A) and (B) on pages 111-112 of the Restriction Requirement both relate to claim 9. Upon reviewing the language of the claims, Applicant respectfully submits that paragraph (B) on page 112 of the Restriction Requirement contains an inadvertent typographical error, and that the Examiner intended to refer to claim 10 instead of claim 9. Applicant, therefore, makes the above election of species based on the assumption that the requirement for election of species set forth in paragraph (B) is relevant to claim 10.

Finally, we note that Applicant examined the file wrapper on Private PAIR on August 22, 2008, and noticed that, in addition to the present Notice, an identical Notice dated April 21, 2008 was present in the file wrapper. Applicant has no record of ever receiving the April 21, 2008 Notice, and therefore concludes that the April 21 Notice was prepared but never mailed to Applicant. Applicant, therefore, respectfully requests that the April 21, 2008 Notice be expunged from the file wrapper.

Applicant thanks the Examiner for careful consideration of this case. Examiner is invited to telephone the undersigned if there is any question about Applicant's position or if a conversation is otherwise warranted.

Please charge any necessary fees or credit any overpayments to our Deposit Account Number 03-1721.

Respectfully submitted,

/BHJarrell/

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